

# Law Offices of David R. Giles

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## ORDER

March 3, 2023

### ***Via ECF Only***

Hon. Edward S. Kiel, U.S.M.J.  
United States District Court, District of New Jersey  
Martin Luther King Federal Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

Re: Application to Reopen Case  
J.S., et al. v. West Morris Regional High School District Board of Education  
Case No. 2:22-00561-EP-ESK

Dear Judge Kiel:

As Your Honor may recall, I represent Plaintiffs, J.S. and S.S., on behalf of A.S., in the matter referenced above, which was administratively terminated by Order dated November 2, 2022. As permitted by that Order, I am hereby applying to reopen the case. I am also seeking leave to file the accompanying Amended Complaint.

The original Verified Complaint was filed with an application for an order to show cause on February 3, 2022, to appeal the decision of an Administrative Law Judge (ALJ) in a special education due process hearing denying emergent relief sought to enforce the student's right to "stay put" under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400, *et seq.* The application was not addressed right away, and by the time it came to the Court's attention, the emergent situation had dissipated. Because the parties were waiting for a final decision in the underlying due process hearing, it was decided to administratively close the matter pending that decision, preserving Plaintiffs' ability to reopen the matter and reactive the application for an order to show cause if necessary.

The ALJ issued a final decision in the underlying due process hearing on December 7, 2022, which did not resolve the "stay put" or IEP issues in the case to the satisfaction of the parents. They wish to appeal that decision. Under IDEA, an appeal of that decision is due within 90 days of its issuance, or by March 7, 2023. 20 U.S.C. § 1415(i)(2)(B); N.J.A.C. 6A:14-2.7(v)(1).

Consequently, while Plaintiffs do not wish to reactive the order to show cause at this time, I am hereby requesting that this matter be reopened and that Plaintiffs be granted leave to file the accompanying Amended Complaint in order to appeal the ALJ's decision.

Hon. Edward S. Kiel, U.S.M.J

October 27, 2022

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The Court's attention to this matter is appreciated.

Respectfully submitted,



David R. Giles

Cc: Jodi S. Howlett, Esq. (via ECF)  
J.S. and R.S (via email)

**Plaintiffs' request to reopen this case is GRANTED. The Clerk of the Court is directed to reopen this case. As to plaintiffs' request for leave to file an amended complaint, plaintiffs shall confer with defendant and file a joint letter by March 13, 2023 advising whether defendant consents to the filing of an amended complaint. If defendant does not consent, plaintiffs are granted leave to file a motion for leave to file an amended complaint in accordance with the Federal and Local Rules by March 17, 2023. A telephone conference is scheduled for March 23, 2023 at 10:00 a.m. before Magistrate Judge Edward S. Kiel. The dial in number is 1-888-684-8852 and the access code is 310-0383#. So Ordered.**

/s/ Edward S. Kiel

Edward S. Kiel, U.S.M.J.

Date: March 6, 2023